

Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.

UNITED STATES TAX COURT
WASHINGTON, DC 20217

CHARLES WILLIAMS A.K.A. C. WILLIAMS,)	
DDS AND MARY WILLIAMS,)	SD
)	
Petitioner(s),)	
)	
v.)	Docket No. 7614-13.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
)	
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)	

ORDER

This case was on the Court’s May 19, 2014 trial calendar for Dallas, Texas. It settled, but the parties have not been able to agree on how to draft a stipulated decision document. The Court spoke with them on November 10, 2014 to see how the case can be pushed to a close, and learned from them that the problem is how to address the question of whether petitioner has already paid part of his tax liability via an setoff of a payment due petitioners from the Social Security Administration.

The dispute is a good illustration of the tricky distinction between a *deficiency* and a *liability*. A deficiency is the difference between the tax owed and the tax shown on a taxpayer’s return, plus any amount previously assessed or collected without assessment as a deficiency, and less any rebates. IRC § 6211(a). A tax liability is the amount a taxpayer actually owes. IRC § 26(b). (Someone whose return is perfect but encloses a bad check has no deficiency but has a liability. Somebody who overwithholds but makes a small mistake on his return may have a deficiency but no liability.)

The Commissioner’s view is that our jurisdiction is generally limited to determining whether a taxpayer has a deficiency, and in this case he agrees that

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petitioners do not have a deficiency. *See* IRC § 6214(a). We generally do not have jurisdiction to restrain or review credits or refunds made by the Commissioner. IRC § 6512(b)(4); *Savage v. Commissioner*, 112 T.C. 46, 51 (1999) (refusing to review credits made by the Commissioner because section 6512(b)(4) prohibits it). But petitioners are concerned that they have not been credited properly and that unless the Court's decision reflects this crediting the IRS may try to collect the same liability twice.

The Commissioner promised to try to check government records and, if they do show an unreported credit, to try to note that in nonstandard language in a decision document. But if that doesn't happen, it is

ORDERED that the parties file motions for entry of decision on or before December 31, 2014.

**(Signed) Mark V. Holmes
Judge**

Dated: Washington, D.C.
November 13, 2014